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In re Application of	:	Cigelske, Jr. et al.
Serial No.	:	10/065,571
Filed	:	October 31, 2002
For	:	System for Assembling Welding Apparatus
Group Art No.	:	1725
Examiner	:	Len Tran

CERTIFICATION UNDER 37 CFR 1.8(a) and 1.10

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Date: August 11, 2006

/Robyn L. Templin/
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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. The request is being filed with a Notice of Appeal. The review is requested for the reasons set forth hereinafter.

In the Claims

1. (Original) A welding apparatus comprising an enclosure, an end panel having a receptacle area formed therein and a base having an end interfitted into the receptacle area of the end panel, the base having at least one snap having a distal end with an opening therein and extending outwardly from the end of the panel, the end panel having at least one ramp formed thereon that is generally in alignment with the at least one snap, whereby the distal end of the at least one snap is engaged to the at least one ramp to retain the end panel to the base.

2. (Previously Presented) The welding apparatus as defined in claim 1 wherein the end panel and base are comprised of molded plastic materials.

3. (Original) The welding apparatus as defined in claim 1 wherein the at least one snap is a U-shaped configuration with the closed distal end extending outwardly from the molded end panel.

4. (Original) The welding apparatus as defined in claim 1 wherein the at least one snap comprises a pair of snaps formed at the end of the base and the at least one ramp comprises a pair of ramps formed in the receptacle area of the end panel.

5. (Original) The welding apparatus as defined in claim 1 wherein the receptacle area comprises angled internal lateral surfaces and the base includes angled external sides adapted to interfit in close proximity to the angled internal surfaces of the end panel to stabilize the affixation of the base and the end panel.

6. (Original) The welding apparatus as defined in claim 1 wherein the base has an upper surface and the receptacle area includes a plurality of vertically oriented ribs adapted to fit over and contact the upper surface of the base to provide vertical stability to the base interfitted to the end panel.

7. (Original) The welding apparatus as defined in claim 1 wherein the at least one ramp formed within the receptacle area of the end panel has an upper surface inclined upwardly in the direction away from the base and ending in a rear vertical wall.

8. (Original) The welding apparatus as defined in claim 7 wherein the distal end of the at least one snap locks against the rear vertical wall of the at least one ramp.

9. (Original) The welding apparatus as defined in claim 8 wherein the end panel has an access opening to allow access to the distal end of the snap to enable the vertical lifting of the distal end to detach the distal end from its locking engagement with the rear vertical wall of the at least one ramp to detach the base from the end panel.

10. (Original) A subassembly for a welding apparatus comprising a molded plastic base and a molded plastic end panel affixed together, the end panel having a receptacle area formed therein and the base having an end interfitted into the receptacle area of the end panel, the base having at least one snap having a distal end with an opening therein and extending outwardly from the end of the base, the end panel having at least one ramp formed thereon that is generally in alignment with the at least one snap, whereby the distal end of the at least one snap is engaged to the at least one ramp to retain the end panel to the base.

11. (Original) The subassembly as defined in claim 10 wherein the at least one ramp has a top surface that is inclined upwardly in the direction away from the base to form a vertical rear wall, and the end wall has a recess proximate to the rear wall.

12. (Original) The subassembly as defined in claim 10 wherein the end panel has an access opening to allow a tool to reach the distal end of the at least one snap to move the distal end vertically.

13. (Previously Presented) The subassembly as defined in claim 10 wherein the at least one snap comprises a pair of snaps and the at least one ramp comprises a pair of ramps.

14. (Original) The subassembly as defined in claim 11 wherein the at least one snap comprising a U-shaped snap having a closed distal end.

15. (Original) The subassembly as defined in claim 13 wherein the receptacle area has lateral internal surfaces and the base has lateral external sides that are complementarily configured to the lateral internal surface so that the lateral external sides of the base fit in a close mating relationship within the lateral internal surfaces of the receptacle area of the end panel.

16. (Original) The subassembly as defined in claim 15 where the lateral internal surfaces of the base are angled surfaces.

17. (Original) A method of assembling a end panel to the base of a welding apparatus, the method comprising the steps of:

providing a molded base with at least one snap having a distal end and an elongated opening formed therein, the at least one snap extending outwardly therefrom,

providing a molded plastic panel having at least one inclined ramp formed thereon leading to a vertical rear wall and having a recess formed proximate the rear wall,

inserting the molded base into the molded plastic panel to cause the snap to ride upwardly along the inclined ramp and enter into the recess to lock the distal end of the at least one snap against the rear wall of the at least one ramp to retain the base to the end panel.

18. (Original) The method as defined in claim 17 wherein the step of providing a molded base with at least one snap comprises providing a molded base with a pair of U-shaped snaps.

19. (Original) The method as defined in claim 17 wherein the molded plastic panel has an access opening proximate the rear wall of the ramp and the method further comprises the step of inserting a tool through the access opening to move the distal end of the snap vertically upwardly to unlock the snap from the rear wall of the ramp.

20. (Previously Presented) The method as defined in claim 17 wherein the step of providing at least one snap comprises providing a pair of snaps and the step of providing at least one ramp comprised providing a pair of ramps.

21. (Previously Presented) The welding apparatus as defined in claim 1 wherein the at least one snap of the base is movable relative to the base to allow passage of the at least one ramp therealong.

22. (Previously Presented) The subassembly as defined in claim 10 wherein the at least one ramp of the end panel is immovably connected thereto in response to the at least one snap moving thereacross.

23. (Previously Presented) The method as defined in claim 17 wherein the step of inserting the molded base further comprises deflecting the snap along the inclined ramp during insertion.

REMARKS

Claims 1-23 are pending in the present application. The Examiner has rejected claims 1-23 under 35 U.S.C. §103(a) as being unpatentable over the single reference Katooka et al. (USP 5,831,240).

The Examiner has rejected claims 1-23 under 35 USC § 103(a) as being unpatentable over Katooka et al. In the Final Office Action mailed April 11, 2006, the Examiner stated that "applicant's claimed invention is just a modification of Katooka et al's configuration to the locking between the end panel and the base... compris[ing] a snap with an opening on the end panel, and a ramp on the base." *Office Action, April 11, 2006, p. 3.* The Examiner further stated that "it would have been obvious to one of ordinary skill in the art at the time of applicant's invention was made to modify the ramp on either the base or the end panel, since that would have been a design choice." *Id.*

In the current invention, claim 1 calls for, in part, a base having at least one snap having a distal end with an opening therein and extending outwardly from the end of a panel, the end panel having at least one ramp formed thereon that is generally in alignment with the at least one snap, whereby the distal end of the at least one snap is engaged to the at least one ramp to retain the end panel to the base. Claim 10 calls for, in part, a base having at least one snap having a distal end with an opening therein and extending outwardly from the end of the base, and an end panel having at least one ramp formed thereon that is generally in alignment with the at least one snap, whereby the distal end of the at least one snap is engaged to the at least one ramp to retain the end panel to the base. Claim 17 calls for, in part, providing a molded base with at least one snap having a distal end and an elongated opening formed therein, the at least one snap extending outwardly therefrom providing a molded plastic panel having at least one inclined ramp formed thereon leading to a vertical rear wall and having a recess formed proximate the rear wall, and inserting the molded base into the molded plastic panel to cause the snap to ride upwardly along the inclined ramp and enter into the recess to lock the distal end of the at least one snap against the rear wall of the at least one ramp to retain the base to the end panel.

MPEP §2143 states, in part, that to establish a case of prima facie obviousness, "the prior art reference... must teach or suggest all the claim limitations." As shown above, each of the independent claims in the current invention, claims 1, 10 and 17, calls for, in part, (1) a base having at least one snap having a distal end with an opening therein and extending outwardly from the end of the panel and (2) an end panel having at least one ramp thereon. As shown in Fig. 2, the current invention discloses a pair of snaps 42 extending outwardly from the ends 28,

30 of a base 26. The snaps 42 each have a distal end 44 and an elongated hole 46 formed therein. The snaps 42 are U-shaped in configuration, with the distal ends 44 being the closed ends of that U-shape. A ramp 60 located on the end panel 16 engages the snap 42 by protruding thru the elongated hole 46 in the snap 42. *See Fig. 2.*

Katooka et al. does not teach, disclose or suggest such a configuration. Rather, the structure in Katooka et al. consists of a projection 310 located on the base, the projection having a protrusion 312 protruding outward from the tip end of that projection. *See Figs. 3A, 3B.* The protrusion functions as a ramp for engaging a through-hole 106 in the front panel 100. As shown in Fig. 3A of Katooka et al., there is no ramp formed on the front panel 100 but merely a through-hole 106 formed therein. Therefore, in Katooka et al. the protrusion 312 is located on the projection 310, both of which are affixed to the base. That is, the "snap" and the "ramp" that the Examiner points to Katooka et al. as disclosing, are both affixed to the base. Furthermore, the projection 310 disclosed in Katooka et al. does not have "a distal end with an opening therein" as called for in the current claims. As shown in Figs. 3C and 3D, the projection is solid and uniform in construction, with no opening therein. The projection 310 is constructed to engage a through-hole located on the front panel 100, thus a projection with an opening therein would be unsuited for this purpose. Therefore, it is clear that Katooka et al. fails to teach, disclose or suggest all the claim limitations set forth in claims 1, 10 and 17.

The Examiner's continued insistence in the Advisory Action dated July 10, 2006, that Katooka et al. discloses an end panel having one snap with an opening and a base having one ramp, is contrary to the disclosure and teachings of the reference. Applicant's close examination of Katooka et al. and the teachings therein, as set forth above, clearly shows that the Examiner's interpretation of the prior art and of what it discloses cannot be supported. Because Katooka et al. fails to teach, disclose, or suggest all of the elements in claims 1, 10 and 17, a prima facie case of obviousness has not been established.

The Examiner has also stated that Katooka et al. "is just an opposite of applicant's claimed invention" and thus "[i]t would have been obvious to one of ordinary skill in the art to modify either having the snap on the end panel or the base, since either way, there exists locking between the end panel and base." *Office Action, supra at 3-4.* Applicant respectfully disagrees. The structures found in Katooka et al. and in the current claims are not "opposites" as claimed by the Examiner.

As stated earlier, Katooka et al. discloses a projection 310 located on the base, the projection having a protrusion 312 protruding outward from the tip end of that projection which

functions as a ramp to engage a through-hole 106. *See Figs. 3A, 3B*. There is no ramp formed on the front panel 100 but merely a through-hole 106 formed therein. The "snap" and the "ramp" in Katooka et al. are both affixed to the base. This is not an opposite of the claimed invention but a different structure altogether that is more than a trivial difference. An accurate description of an opposite would be a projection located on the front panel, with the protrusion being formed on the base. Such is not the configuration in Katooka et al. and it is clear that the present claims do not read thereon. In fact, the structure set forth in the current claims provides an improved and more secure connection over that disclosed in Katooka et al. and one which better prevents unwanted opening of the welding apparatus enclosure. As seen in Fig. 2 of the present invention, an access opening 72 is provided at the vertical rear wall 70 of the ramp which restricts access to the snap 42 used to detach the base 26 from the rear panel 16. A tool must be inserted into the access opening 72 to contact and push the distal end 44 of the snap 42 upwardly so that the snap 42 can be unlocked. This configuration provides improved security over the projection 310 and protrusion 312 mechanism that engages the through-hole 106 in Katooka et. al, which can be unlocked by simply pushing a finger inward on the protrusion. *See Figs. 3A, 3B; see also Col. 6, lns. 25-32*. While the features just described are not set forth as elements of claims 1, 10, or 17, Applicant believes that they serve to distinguish the current invention from Katooka et al. From the above description, it is clear that the two structures described are not opposites and that the structure set forth in the current claims provides for a more secure connection than the mechanism disclosed in the cited reference.

Even assuming *arguendo* that the inventions are opposites, the Examiner's statement that the claimed invention is "just an opposite" of Katooka et al. is not, in and of itself, enough to support an obviousness rejection. As stated earlier, to establish a prima facie case of obviousness, the reference[s] must teach or suggest all of the claim limitations and must suggest or motivate the modifications thereto. *MPEP §2142*. Further, the teaching or suggestion to make the claimed combination and/or modification must both be found in the prior art, and not based on applicant's disclosure. MPEP §2142. **"The fact that references can be combined or modified is not sufficient to establish prima facie obviousness."** MPEP § 2143.01. The reference must teach or suggest the desirability of the proposed modification. So, even if these structures were opposites, which they are not, the Examiner must find a reference to support a finding that the opposites are interchangeable without any inventive step, or that there is a motivation in the prior art to modify the one to arrive at the other. The Examiner has not done so. There is nothing in patent law that says that an "opposite" is not patentable.

Katooka et al. recites a different structure than the claimed system, and the Examiner has not adduced any evidence which supports a conclusion that one of ordinary skill in the art would have found it obvious to modify the structure recited in Katooka et al. to create a structure with the elements called for in claims 1, 10 and 17. Further weakening the Examiner's obviousness rejection based on the inventions being opposites is his own admission that he agreed with the Applicant's argument from the response dated February 3, 2006, stating that "Katooka et al fail [sic] to teach the claimed invention as claimed." *Id.* Merely stating that the current invention and the applied reference are opposites is not sufficient to establish a prima facie obviousness rejection under 35 U.S.C. §103(a) and does nothing to overcome the admission that the cited reference fails to teach the claimed invention. The Examiner's position regarding Katooka et al. and the current invention being alleged opposites, and that Katooka et al. would have suggested the claimed system to one of ordinary skill in the art, are not supported by evidence. As Katooka et al. fails to teach or suggest all of the claim limitations and there is no suggestion or motivation to modify the teachings therein, a prima facie case of obviousness can not be supported.

Therefore, in light of at least the foregoing, Applicant believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 1-23.

Applicant appreciates the Examiner's consideration of these Amendments and Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,

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